

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

CT102 LLC d/b/a Metro Motors and H.
Jeffrey Baker,

Plaintiffs,

v.

Civil Action No.:1:20-cv-356-MSM-PAS

Automotive Finance Corporation d/b/a AFC;
NextGear Capital, Inc; Southern Auto Sales,
Inc., AUTOTEC, LLC d/b/a AUTOACCESS,
LLC; Manheim, Inc.; and ADESA, Inc.

Defendants.

DEFENDANT MANHEIM REMARKETING, INC.'S
MOTION TO DISMISS OR IN THE ALTERNATIVE TO STAY PENDING
COMPLETION OF MANDATORY ARBITRATION

Defendant, Manheim Remarketing, Inc. (“Manheim”), pursuant to the Rule 12(b)(6) of the Federal Rules of Civil Procedure and the Federal Arbitration Act, 9 U.S.C. §1 *et seq.*, respectfully moves this Court for an order dismissing all counts against Manheim in the First Amended Complaint (“Complaint”) filed by Plaintiffs, CT102 LLC d/b/a Metro Motors (“Metro Motors”) and H. Jeffrey Baker (“Baker”) (collectively “Plaintiffs”), or, in the alternative, to stay same pending completion of the mandatory arbitration provisions in the contracts between the parties. Simply put, Plaintiffs agreed in writing by contract that they cannot sue Manheim in any jurisdiction except Fulton County, Georgia or otherwise must arbitrate their disputes with Manheim. Notwithstanding this agreement, Plaintiffs improperly filed this instant lawsuit in Rhode Island. In support of its Motion, Manheim submits its accompanying Memorandum of Law,

the Affidavit of Victoria Tai, the Affidavit of Dorcas Morris and all exhibits referenced therein, which consist of the contract documents that are central to the matter before this Court.¹

WHEREFORE, Defendant, Manheim Remarketing, Inc., respectfully requests that that this Court enter an order dismissing all counts against Manheim Remarketing, Inc. in Plaintiffs' First Amended Complaint, or in the alternative stay this action to permit mandatory arbitration to proceed, and for such other relief as this Court deems just and proper.

Respectfully submitted,
DEFENDANT
MANHEIM REMARKETING, INC.
by its counsel,

Dated: October 23, 2020

/s/ Katharine E. Kohm

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¹ When documents are central to a plaintiff's complaint, the documents "merge[] into the pleadings" and may be properly considered by the Court in determining a motion to dismiss. *See Claudia-De Leon*, 775 F.3d at 46 (quoting *Alt. Energy, Inc.*, 267 F.3d at 3); *see also Ironshore Specialty Insurance Company v. United States*, 871 F.3d 131, 135-136 (1st Cir. 2017).

CERTIFICATE OF SERVICE

I certify that the foregoing document was electronically filed with the Clerk of the Court on the 23th day of October and that it is available for viewing and downloading from the Court's CM/ECF system. All counsel of record for represented parties have been served by electronic means on the date this document was filed. All parties who are self-represented or whose counsel have not yet entered an appearance have been served by U.S. Mail, first class postage prepaid, and email on the date this document was filed.

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/s/ Katharine E. Kohm